Small Business Guide

to the Most Frequently Asked Tax Questions

Ontario

Ministry of Finance Tax Offices

Brantford
213 King George Road
Brantford ON N3R 6S8 519-754-4849
Toll Free English/French: 1-800-461-3806
Facsimile: 519-758-2239

Durham
1600 Champlain Avenue, 2nd Floor
Whitby ON L1N 9B2 905-432-3332
Toll Free English/French: 1-800-668-5810
Facsimile: 905-435-3535

Hamilton
119 King Street West, 15th Floor
Hamilton ON L8P 4Y7 905-521-7504
Toll Free English/French: 1-800-263-9229
Facsimile: 905-521-7868

Kitchener
305 King Street West, 1st Floor
Kitchener ON N2G 1B9 519-576-8400
Toll Free English: 1-800-265-2303
Facsimile: 519-571-6100

London
Dufferin Corporate Centre
130 Dufferin Avenue, Unit 400
London ON N6A 6G8 519-433-3901
Toll Free English/French: 1-800-265-1540
Facsimile: 519-661-6618

Mississauga
77 City Centre Drive, Suite 200
Mississauga ON L5B 1M5 905-273-9490
Toll Free English/French: 1-800-265-9969
Facsimile: 905-949-3389

North Bay
447 McKeown Avenue, Suite 102
North Bay ON P1B 9S9 705-474-4900
Toll Free English/French: 1-800-461-1564
Facsimile: 705-495-3805

North York
5 Park Home Avenue, Suite 200
North York ON M2N 6L4 416-222-3226
Toll Free English/French: 1-888-565-6433
Facsimile: 416-218-3738

Oshawa
33 King Street West
P.O. Box 627
Oshawa ON L1H 8H5
Toll Free English/French: 1-800-263-7965
Facsimile: 905-433-6777

Ottawa
1400 Blair Place, Suite 300
Gloucester ON K1J 9B8 613-746-9200
Toll Free English/French: 1-800-461-4909
Facsimile: 613-842-3593

Sudbury
(payment drop-off only)
199 Larch Street, Suite 102
Sudbury ON P3E 5P9 705-564-6118
Facsimile: 705-564-4499

Thunder Bay
130 South Syndicate Avenue, 3rd Floor
Thunder Bay ON P7E 1C7 807-625-5840
Toll Free English/French: 1-800-465-6699
Facsimile: 807-625-5848

Windsor
215 Eugenie Street West, Unit 103
Windsor ON N8X 2X7 519-250-0066
Toll Free English/French: 1-800-465-4021
Facsimile: 519-972-2950

Additional Resources

Ministry Information Centre
- English ..... 1-800-263-7965 (Canada & U.S.)
- French ..... 1-800-668-5821 (Canada & U.S.)
- TTY (Teletypewriter) 1-800-263-7776

Website
www.trd.fin.gov.on.ca

TAXFAX Service
- Toll Free ..... 1-877-482-9329 (Canada & U.S.)

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Small Business Guide *to the Most Frequently Asked Tax Questions*

How This Guide Can Help You

If you are starting or currently operating a small business in Ontario, this guide will answer the questions asked most frequently by small businesses regarding their rights and obligations under the tax statutes administered by the Ministry of Finance.

This booklet will guide you through various aspects of Retail Sales Tax, Corporations Tax and Employer Health Tax, such as registration, tax return filing requirements, tax rates, instalment payment schedules, exemptions and refunds, and what you can do if you wish to object to an assessment or disallowance. In addition, you will find a few questions relating to Community Small Business Investment Funds, Labour Sponsored Investment Funds and Motor Fuels and Tobacco Taxes. **Where you may have more complex questions, we will refer you to more detailed publications available from your local Ministry of Finance tax office, or to the telephone numbers of sources that will be able to assist you.**

Please refer to the Glossary of Terms on page 34 if you are unfamiliar with the terms used in this guide.

One-Window Services

The Ministry of Finance offers one-window services on provincial tax programs, including Retail Sales Tax, Corporations Tax, Employer Health Tax and Collections through its Regional Tax Offices in London, Mississauga, North York and Ottawa. In addition, other Ministry of Finance tax offices located throughout the province will be able to assist you with your information needs. For the telephone number of the tax office in your area, please consult the listing of Ministry of Finance tax offices at the front of this guide. Ministry of Finance offices are open Monday to Friday between 8:30 a.m. and 5:00 p.m.

Tax Revenue Division

The Tax Revenue Division of the Ministry of Finance administers Ontario's tax statutes, tax credits and benefit programs. The Division maintains the integrity of Ontario's tax administration system by encouraging voluntary compliance and discouraging non-compliance. In delivering its mandate, the Ministry's Tax Revenue Division promotes compliance through taxpayer information services and an impartial objections review, while non-compliance and tax evasion are deterred through audits, investigations and collection activities.

Compliance Benefits

By filing your returns on time and making payments when due, you can avoid penalties, interest and other sanctions. The Ministry of Finance acknowledges the importance of voluntary compliance in Ontario's tax system by not prosecuting individuals or corporations who voluntarily approach the Ministry to correct problems in their past reporting or dealings with the Ministry. Anyone who voluntarily discloses a violation of a statute administered by the Ministry of Finance will be allowed to settle any related debt by making full payment including interest. Disclosure must be made before notification of any proposed enforcement action by the Ministry. Refer to Tax Information Bulletin *Voluntary Disclosure* available from your local Ministry of Finance tax office.

Internet and TAX FAX Access

You can obtain many of this Ministry's publications and forms by visiting our website at **www.trd.fin.gov.on.ca**. This guide, as well as many other guides, is also available through our TAX FAX Service at 1-877-4-TAX-FAX or 1-877-482-9329.

Retail Sales Tax (RST)

Definition

1. What is retail sales tax?

Retail sales tax (RST) or provincial sales tax (PST) is a provincial tax that is imposed on the user or consumer of most goods and certain services used/consumed in Ontario, including prices of admission and insurance.

2. Which services are subject to RST?

The following services are subject to RST in Ontario. Generally, these are:

- telecommunication services (e.g., telephone, cable, pay television)
- transient accommodation for less than one month in hotels, motels, and bed and breakfasts
- labour provided to install, assemble, dismantle, adjust, repair or maintain tangible personal property other than a computer program
- labour provided to install, configure, modify or upgrade a computer program, where there is a sale of the labour on or after July 19, 2002
- maintenance, warranty or service contracts of tangible personal property other than a computer program
- contracts entered into on or after July 19, 2002 for the service, maintenance or warranty of a computer program
- commercial parking.

Tax Rates

3. What is the tax rate in Ontario?

The general RST rate is 8% which applies to most goods and certain services. However, special rates apply to accommodation for a period of less than one month (5%); admissions over $4 (10%); and alcoholic beverages (10% and 12% depending upon the method of distribution).

Special rates also apply to automobile insurance:

- 4% for premiums due after May 2, 2000 and before April 1, 2001
- 3% for premiums due after March 31, 2001 and before April 1, 2002
- 2% for premiums due after March 31, 2002 and before April 1, 2003
- 1% for premiums due after March 31, 2003 and before April 1, 2004.

And for warranty repairs:

- 8% for repairs up to and including May 2, 2000
- 6% from May 3, 2000 to March 31, 2001
- 4% from April 1, 2001 to March 31, 2002
- 2% from April 1, 2002 to March 31, 2003
- 1% from April 1, 2003 to March 31, 2004

The Ontario *Retail Sales Tax Act* also levies a tax for fuel conservation (TFFC) that applies to sales and leases of new passenger and sport utility vehicles. A tax of 13 cents per litre is also imposed on brew-your-own beer and wine.

Tax Rates (continued)

For further information, please refer to the following RST Guides:

208 - *Tax Included Pricing*
301 - *Accommodation*
302 - *Alcoholic Beverages*
303 - *Admissions*
513 - *Tax for Fuel Conservation*
519 - *Insurance - General Information*

Chattel Tax

4. What is chattel tax?

Chattel tax is RST that is payable on the purchase of business assets purchased as part of an ongoing business. RST does not apply to real property, fixtures, intangibles such as goodwill, nor to inventory purchased for resale purposes.

For further information, refer to RST Guide 206 - *Real Property and Fixtures*.

Registration/ Vendor Permit

5. Do I need a Vendor Permit?

If you will be selling taxable goods and services, or charging admission over $4, you must obtain an RST Vendor Permit for the purpose of charging, collecting, and remitting RST on your taxable sales. You may need a Vendor Permit to account for RST on items purchased exempt from RST which are for your own use or consumption. A Vendor Permit is required for the collection of RST on premiums for certain types of insurance contracts and benefits plans. If you are a non-resident contractor doing business in Ontario, you must register with the Ministry of Finance. You will need a Vendor Permit if you are a manufacturing contractor, that is, the manufactured cost of goods you use in real property contracts is more than $50,000 in any fiscal year.

You should also contact the Ontario Ministry of Consumer and Business Services for information regarding additional licences you may require.

6. How do I obtain an RST Vendor Permit?

You may register by phone, mail, or in person at any Ministry of Finance tax office listed in this guide. You may also register at any Ontario Business Connects workstation or through their website at **www.obc.gov.on.ca/obc**.

7. I registered at an Ontario Business Connects terminal but have not received my Vendor Permit. What do I do now?

Generally, it takes three weeks from the time you register to receive your Vendor Permit. You should contact your local Ministry of Finance tax office listed at the front of this guide if you have any questions in this regard.

Registration/ Vendor Permit (continued)

8. Do I have to post my Vendor Permit at my business location?

No. However, a copy of the permit must be maintained at each business location and must be produced for inspection by a purchaser on request.

9. When does the Vendor Permit expire? How do I renew it?

There is no expiry date on the Vendor Permit. A Vendor Permit is no longer valid if there is a change in ownership. (The Blanket Purchase Exemption Certificate you may have given to your supplier expires after a period of four years.)

10. I will be selling or closing my business. Do I need to cancel my Vendor Permit?

Yes. If you cease to carry on the business for which the permit was issued, the permit becomes void and must be returned to the Minister within 15 days.

Purchasing an Existing Business

11. If I buy a business from someone else, can I use his/her Vendor Permit number?

No, you may not transfer the Vendor Permit to yourself from anyone as it is registered under their legal name. You must contact the local Ministry of Finance tax office listed in this guide or the blue pages of your telephone directory and obtain your own Vendor Permit.

12. If I purchase an existing business, how do I ensure that I will not be liable for any unpaid RST owed by the previous owner?

You must obtain a copy of a Clearance Certificate from the person or entity (partnership or corporation) selling the business, otherwise you may be liable for any outstanding RST amounts owed by the previous owner. When a person or entity sells an existing business, that person or entity must obtain a Clearance Certificate from the RST Branch to confirm that all taxes collectable or payable by that person or entity have been paid.

For further information, refer to Small Business Pointer *SBP 301 – The Basics of Retail Sales Tax*.

13. Will my request for a Vendor Permit be delayed if I do not obtain a Clearance Certificate from the previous owner?

No, your request for a Vendor Permit will not be delayed if you do not obtain a Clearance Certificate from the previous owner.

Tax Returns and Payments

16. How and when do I obtain the RST returns?

You will receive your returns by mail approximately three weeks before each due date. Vendors who are required to file RST returns monthly will receive a package of three return forms covering three filing periods.

17. When is my return and payment due?

Returns and payments are due on or before the 23rd day of the month following the end of your filing period, unless you have been authorized to use a special filing period. The due date is printed on the front of every return. If the due date falls on a weekend or holiday, the return is due on the next normal business day.

18. Do I still have to file a return if no sales were made or if the sales made were not taxable?

Yes. RST returns must be filed even where no sales, either taxable or tax-exempt, were made during the filing period. If you did not make any sales, write '0' on Line 1 of the return. If you fail to file a return, you may be subject to a fine of $50 for each day the return is late-filed. Financial institutions will not accept a paper return if there is no money paid. In this case, the return must be mailed, sent by courier, or hand-delivered to a Ministry of Finance tax office, or submitted using the Internet Banking Service.

19. My terms are not 30 days. Do I have to remit the RST to you even if I have not received the money from my customers?

Yes. RST is due at the time of sale of all taxable goods and services, except for insurance. RST on insurance premiums is due when you actually receive the payment from your customer.

20. I just realized I haven't been charging RST on some taxable sales. Am I liable for tax on past sales?

Yes. However, anyone who voluntarily discloses past taxes owed to the Ministry of Finance will be allowed to settle any related debt by making full payment including interest. You will not be assessed penalties or prosecuted if the disclosure meets the conditions outlined in the Ministry of Finance's Tax Information Bulletin *Voluntary Disclosure*.

21. What should be included in Line 3 of the RST return?

Report and remit, on Line 3, any RST payable on taxable goods and taxable services used in your business or for your own use on which RST was not previously paid. This includes items taken from your exempt inventory, goods brought into Ontario, or items used in fulfilling a real property construction contract.

Retail Sales Tax (RST)

Tax Returns and Payments (continued)

Q5. Where do I send my return and payment?

Retail Sales Tax returns and payments may be made:

- at any financial institution in Ontario where you have an account (except cheque cashing or credit unions)
- by mail or delivery to any Ministry of Finance tax office, in the envelope provided
- electronically, using a financial institution's Internet Banking Service

Financial institutions will not accept returns at their locations when payment is not included.

Q6. What is the Internet Banking Service?

The Internet Banking Service is an on-line tax return filing and payment service available seven days a week, 24 hours a day, using a financial institution's website. To enable participating financial institutions' customers to electronically submit RST returns and payments via the Internet, this service is currently offered by many financial institutions to customers who have a business account with them. Visit your financial institution's website or contact them for assistance when accessing or navigating these electronic services.

Q7. If I use the Internet Banking Service, when will my payment be processed?

Returns and payments sent electronically by the Internet or a particular day will be processed that night. This means that a payment that is due for example, on June 23rd must be entered by midnight June 22nd in order to be processed on time. Similarly, post-dated payments must be dated at least one day prior to the due date in order to be processed on time.

If the payment amount entered is less than the tax calculated for the return, the system will not accept the payment and return. However returns are accepted when it is late in error.

Q8. What if I file my return late?

If you late file or short pay your return, you will be required to pay penalties at 5% of the Tax Collectable on Sales (Line 3 of the return) and 5% of the Tax Payable for Each Use (Line 5 of the return), with no maximum.

Compensation

Q. How much do I get paid for storing/collecting RET on my table?

Compensation is based on the amount of tax charged on your table (i.e. reported on Line 1 of the return filed) and is calculated as follows:

If you charged	then deduct
$0 (0 %) tax	No deduction
between $0.01 and $999.99	$0.04
$1000 (0 %) or more	4% of the amount shown on Line 1

The annual compensation is for each legal entity is $1,000 for each 12 month period ending March 31.

Purchase

Q. How do I claim an exemption from RET on goods I intend to resell?

To receive an exemption from RET, you must provide a properly completed Purchase Exemption Certificate (PEC) to your supplier(s).

For further information, refer to RET Guide G6 - Purchase Exemption Certificates.

Q. What is a Purchase Exemption Certificate (PEC)?

The PEC is a tax form that is completed by anyone entitled to claim an exemption from RET on the purchase of tangible personal property or taxable services when selling, renting or leasing it in the ordinary course of business.

For further information, refer to RET Guide G6 - Purchase Exemption Certificates.

Q. Who is responsible for completing a Purchase Exemption Certificate?

The purchaser is responsible for completing the PEC when claiming an exemption from the supplier. However, the vendor/supplier is responsible for having a PEC on file to support any claimed sales and may be assessed for tax not collected on claimed sales if no PEC was on file. Vendors are not responsible for verifying that the customer is entitled to issue a PEC but are responsible for ensuring the PEC is not accepted in the right circumstances (i.e. PECs cannot be used to claim an exemption on non-property, services, etc.).

Sales

Q. If I pay RET on all my purchases, do I still need to collect tax on my sales?

Yes. However, as noted in Question #3, the supplier may allow for a full or partial refund with a properly completed Purchase Exemption Certificate claiming the goods were purchased for resale purposes. If you are claim a refund, check directly with the Ministry of Finance.

Retail Sales Tax (RST)

Sales (continued)

29. On what items must I charge RST?

RST applies to tangible personal property, unless specifically exempted, and certain taxable services such as telecommunication services, transient accommodation, commercial parking spaces, labour provided to install, assemble, dismantle, adjust, repair or maintain tangible personal property other than a computer program, labour provided to install, configure, modify or upgrade a computer program, where there is a sale of the labour on or after July 19, 2002, warranty or service of tangible personal property other than a computer program, contracts entered into on or after July 19, 2002 for the service, maintenance or warranty of a computer program.

For further information, please refer to the following Retail Sales Tax Guides:

- 206 - *Real Property and Fixtures*
- 300 - *Prepared Foods*
- 301 - *Accommodation*
- 302 - *Alcoholic Beverages*
- 303 - *Admissions*
- 601 - *Labour Charges*

Exemptions

30. Which goods and services are exempt from RST?

Certain goods are unconditionally exempt, due to their nature, and may be purchased exempt from RST by anyone. For example, RST does not apply to food products, children's clothing or drugs and medicines sold under a doctor's prescription. Other exemptions are conditional, that is, the exemption is dependent upon the nature of the purchaser and/or the end-use to which the goods are put; for example, goods purchased for resale, production machinery and equipment purchased for the use of a qualifying manufacturer and hospital equipment purchased by a qualifying hospital.

Examples of services that are not taxable include dry cleaning and personal services such as hair styling or beauty treatments. If you provide a non-taxable service, you do not charge your customer RST. However, you must pay RST on any taxable goods and services you use to perform the non-taxable service.

For further information, please refer to the following Retail Sales Tax Guides:

- 303 - *Admissions*
- 400 - *Manufacturers*
- 500 - *Food Products*
- 507 - *Publications*
- 508 - *Children's Clothing and Footwear*
- 805 - *Hospitals*
- 807 - *Farmers*

31. Can I sell goods exempt from RST to Status Indians? If so, what is required?

Most items purchased by Status Indians, Indian bands or band councils **for use on reserves** are exempt from RST. To receive the exemption, Status Indians must show their federal "Certificate of Indian Status" identification card. If the Status Indian takes the goods with him/her, you must record the purchaser's federal identification card number, name, band name or registry number, and a brief description of the goods sold. Status Indians must pay RST on prices of admission over $4, transient accommodation, taxable labour, alcoholic beverages, and taxable prepared food products purchased off the reserve.

Exemptions (continued)

Where you deliver goods (except for motor vehicles) to a reserve, you must keep the delivery slip or bill of lading to prove that the tax exemption was valid. If the goods are delivered to an address off the reserve, RST must be charged.

Where an Indian band or band council claims an exemption, you must obtain a properly completed Purchase Exemption Certificate that is signed by a member of the band or council.

For further information, refer to RST Guide 808 - *Status Indians, Indian Bands, and Band Councils*.

32. What do I need to do if someone claims an exemption?

You must obtain a properly completed Purchase Exemption Certificate from the customer, unless the customer is a Status Indian, as outlined above, or a diplomat. Eligible holders of diplomatic identity cards may purchase or rent specified goods and services without paying RST. The diplomat must show his/her identity card to receive an exemption from RST. They must also sign a sales document or record. These identity cards may **only** be used by the individuals to whom they have been issued.

Before making a tax-exempt sale, you should check the back of the customer's identity card to make sure the cardholder is entitled to the exemption and check the expiry date on the front of the card to ensure it is still valid.

Diplomatic organizations may purchase goods or services without paying RST, provided they give you a properly completed Purchase Exemption Certificate (PEC).

For further information, refer to RST Guide 204 - *Purchase Exemption Certificates*

33. Do I charge RST on goods delivered or shipped to a location outside Ontario?

No. RST does not apply to goods that you ship directly to a location outside Ontario. You should retain all shipping documents and/or bills of lading to support the exempt sale.

Audits

34. During the course of an audit, if I disagree with your Audit Department, can I contact someone other than the Audit Department to obtain a ruling?

It is Branch policy that all requests for information relating to the Ontario *Retail Sales Tax Act* must be directed to the Audit Department when an audit is in process. Any requests for interpretation should be forwarded to the audit manager in charge of conducting the audit.

For further information, refer to RST Tax Guide 211 - *Understanding Your Retail Sales Tax Audit*.

Refunds

35. I paid RST on goods I will be reselling. Will the supplier refund the tax to me?

The supplier has the authority to refund the tax to you, but is not required to do so. However, you must provide the supplier with a properly completed Purchase Exemption Certificate to claim an exemption. Alternatively, you may claim a refund directly from the Ministry of Finance by completing a *General Application for Refund* of RST form. The refund claim must be received by the Ministry within four years from the date tax was paid.

36. A customer has advised me that I charged tax in error. Can I refund the RST to him/her?

You can refund the RST to the customer if he/she provides a properly completed Purchase Exemption Certificate claiming that the goods are being purchased for resale purposes, or if you made a clerical or arithmetical error in the calculation of the tax charged. You may also refund tax to a customer if the purchase price of the goods, services or price of admission is subsequently reduced and the amount of the reduction is credited to the purchaser. Any refund of RST paid to the customer must be made within four years following the date the tax was collected.

If you charged RST in error on exempt items, you may not rebill or refund the tax to the customer; he/she must apply for a refund from the Ministry of Finance, Retail Sales Tax Branch.

37. If I refund tax to my customer, how do I get it back?

RST refunded to your customer may be deducted from your future remittance of RST, i.e., from the tax collected on sales. Any such deduction must be made within four years from the date of the refund to the customer.

38. Where can I obtain a refund claim form and where do I send my completed form?

Applications for Refund of RST may be obtained from any Ministry of Finance tax office listed in this guide, by calling 1-800-263-7965, or from the Ministry of Finance website at **www.trd.fin.gov.on.ca.** Refund forms are also available through the Ministry of Finance TAX FAX Service at 1-877-4-TAX-FAX or 1-877-482-9329.

The completed application form should be sent, along with the applicable supporting documentation, to the address noted on the form:

Ministry of Finance
Retail Sales Tax Refund Unit
1600 Champlain Ave., 2nd Floor
Whitby ON L1N 9B2

For further information, refer to RST Guide 700 - *Refunds and Adjustments*.

Address Changes

39. What are the procedures to change the address of my business?

To make changes to your business or trade name or your mailing or business address, call your local Ministry of Finance tax office (refer to the front of this guide) or complete the Notification of Change form on the back of your Retail Sales Tax return and mail it to your local Ministry of Finance tax office. The address is noted on the front of your return.

Correcting Account/ Return Information

40. How do I make corrections to my account?

For corrections regarding any financial, account related or administrative information, please contact your local Ministry of Finance tax office.

Corporations Tax

Tax Liability

1. Who is liable for Ontario corporate taxes?

All incorporated businesses, including those incorporated inside and outside Canada, that maintain a permanent establishment in Ontario are liable for Ontario corporate taxes. A permanent establishment can generally be described as a fixed place of business such as an office, farm, factory, branch, warehouse, etc.

Unincorporated businesses are not required to pay Ontario corporations tax. These include sole proprietorships and businesses run by individuals as partnerships. Owners of unincorporated businesses are, however, subject to personal income tax on an individual basis.

Tax Returns

2. When is the tax return due?

All corporations that have a permanent establishment in Ontario are required to file a Corporations Tax Return within six months of the corporation's taxation year end. The Ministry of Finance considers the tax return filed the day the return is **received** by the Ministry – not the date the return was mailed. The balance of tax owing, if any, is due at an earlier date; the balance of tax due date. (Refer to question 16 under the heading "Payments" for more information.) A late filing charge will be applied if the return is received after the due date. The late filing charge is based on the unpaid balance of tax at the return due date.

3. What information must be included with the tax return?

The CT23 Corporations Tax Return must be completed and signed by an officer of the corporation. A completed Annual Return (if applicable), copies of the corporation's financial statements, completed in accordance with Generally Accepted Accounting Principles and any Ontario schedules should be included with the tax return. Please refer to Information Bulletin 4001 *Combined Return, Short-Form Return and Exempt From Filing Policy for Corporations* dated January 2002 for information on the filing requirements for the Annual Return.

The Ministry of Finance prefers corporations to file the financial statements prepared for the shareholders of the corporation. However, where a corporation does file a hard copy of the General Index of Financial Information (GIFI) in lieu of financial statements, the Ministry will accept the GIFI where there is sufficient information in the GIFI to validate any taxes payable or to support a loss. The Ministry reserves the right to request financial statements where this is needed to verify the correct amount of the corporation's tax liability under the *Corporations Tax Act*. For further information on the Ministry's policy on accepting the GIFI please refer to Information Notice 6004 - *General Index of Financial Information (GIFI)*.

The federal T2 Corporate Income Tax Return and related schedules must be included with the return sent to the Ministry of Finance if the taxation year ends before January 1, 2001. For taxation years ending after December 31, 2000, corporations are no longer required to file a copy of the federal T2 and related schedules, provided the federal documents have been filed with the Canada Customs and Revenue Agency.

Tax Returns (continued)

4. Are any corporations exempt from filing a corporations tax return?

Please refer to the Exempt From Filing Declaration Form on page 2 of the CT23 Corporations Tax and Annual Return or to Information Bulletin 4001 *Combined Return, Short-Form Return and the Exempt from Filing Policy for Corporations* dated January 2002 for the conditions which must be met in order to be exempt from filing for a particular taxation year.

You may also contact the Desk Audit Section of the Corporations Tax Branch for information on the filing requirements at one of the following telephone numbers:

Toronto: 416-920-9048 ext. 6559; French ext. 5639
Oshawa: 905-433-6559
Toll Free: 1-800-262-0784 ext. 6559; French ext. 5639 (within Ontario)
Toll Free: 1-800-263-7965 ext. 6559; French ext. 5639 (outside Ontario)
Fax: 905-433-6998

5. Which corporations qualify to use the short form CT23 Tax Return?

The criteria for determining whether or not a corporation can use the CT23 Short Form Corporations Tax Return is provided in Information Bulletin 4001 *Combined Return, Short-Form Return and the Exempt from Filing Policy for Corporations* dated January 2002.

6. How do I make corrections to my return?

File an amended return for the taxation year in question. Alternatively, a letter detailing the required changes may be sent to:

Ministry of Finance
Corporations Tax Branch
Desk Audit Section
P.O. Box 622, 33 King St. W.
Oshawa ON L1H 8H6

For Canadian-controlled private corporations, corrections must be made within **four** years from the date of mailing of a notice of original assessment. For all other corporations, corrections must be made within **five** years from the date of mailing of an original assessment. Where the correction relates to a discretionary deduction (e.g. capital cost allowance claim), the Corporations Tax Branch will only make the correction under the circumstances outlined in Corporations Tax Branch Interpretation Bulletin Number 3009 *Statute-Barred Periods* dated October 2001 and provided the year is not statute-barred.

Components of Corporations Tax

7. What are the components of corporations tax?

The components of corporations tax for small corporations are income tax and capital tax. Insurance corporations pay premium tax instead of capital tax.

Components of Corporations Tax (continued)

8. What is the provincial corporate income tax rate?

Existing General Rate	Applicable Dates
14.0%	effective January 1, 2001
12.5%	effective October 1, 2001

The 2002 Budget proposed the following corporate income tax rate cuts:

Proposed General Rate	Applicable Dates
11.0%	effective January 1, 2004
9.5%	effective January 1, 2005
8.0%	effective January 1, 2006

For taxation years straddling these dates, the income tax rate is prorated for the number of days in the taxation year for the particular rate over the number of days in the taxation year.

The Incentive Deduction for Small Business Corporations (IDSBC) reduces the Ontario corporate income tax rate to arrive at an effective tax rate for small Canadian-controlled private corporations on their first $240,000 of active business income. This amount changed to $280,000 effective October 1, 2001 and is prorated for taxation years straddling that date. This amount will eventually reach $400,000 effective January 1, 2005. The following chart shows the effective small business tax rate as announced in the May 2, 2000 Ontario Budget.

Effective Small Business Rate	Applicable Dates
6.5%	effective January 1, 2001
6.0%	effective October 1, 2001
5.5%	effective January 1, 2003
5.0%	effective January 1, 2004
4.0%	effective January 1, 2005

For taxation years straddling these dates, the effective small business rate is prorated.

The benefit of the IDSBC is gradually reduced by a surtax where taxable income is greater than $240,000. (This amount changed to $280,000 effective October 1, 2001 and is prorated for taxation years straddling that date. This amount will eventually reach $400,000 effective January 1, 2005.) The surtax will completely eliminate the benefit of the IDSBC where the taxable income is $600,000 or more. (This amount changed to $700,000 effective October 1, 2001 and is prorated for taxation years straddling that date. This amount will eventually reach $1,000,000 effective January 1, 2005.)

Components of Corporations Tax (continued)

The tax rate on income from manufacturing, processing, farming, fishing, mining or logging (M&P) that does not qualify for the reduced small business tax rate is as follows:

Existing Manufacturing Rate	Applicable Dates
12.0%	effective January 1, 2001
11.0%	effective October 1, 2001

The 2002 Budget proposed the following M&P income tax rate cuts:

Proposed Manufacturing Rate	Applicable Dates
10.0%	effective January 1, 2004
9.0%	effective January 1, 2005
8.0%	effective January 1, 2006

For taxation years straddling these dates, the manufacturing rate is prorated.

9. What is the capital tax rate?

The general capital tax rate is 0.3% of a corporation's taxable paid-up capital. Insurance corporations pay premium tax instead of capital tax.

Effective October 1, 2001, all corporations have a $5 million deduction from paid-up capital in computing capital tax. This amount is prorated for taxation years straddling October 1, 2001. The $5 million deduction replaces the reduced capital tax rates previously available for small corporations.

Please refer to the Interpretation Bulletin 3011 *Capital Tax - General Information and Special Cases* dated January 2002 for information on capital tax rates for small businesses whose taxation year ends after May 4, 1999 and before October 1, 2001. For an example of the capital tax calculation, please refer to the *Guide to the 2001 CT23 Corporations Tax and Annual Return*.

A copy of the guide may be obtained by accessing the Ministry of Finance website at **www.trd.fin.gov.on.ca** or by contacting:

Ministry Information Centre
Ministry of Finance
P.O. Box 627
33 King Street West
Oshawa ON L1H 8H5

General Enquiry: 1-800-263-7965

Corporations Tax

Payments

10. Where can I make my corporations tax payments?

Corporations tax payments may be made:

- at any financial institution in Ontario where you have an account (except caisse populairies or credit unions)
- by mail, or delivery to any Ministry of Finance tax office
- electronically, using a financial institution's Internet Banking Service.

11. What is the Internet Banking Service?

The Internet Banking Service is an on-line tax payment service, available seven days a week, 24 hours a day, using a financial institution's website. It enables participating financial institutions' customers to electronically remit corporations tax payments via the Internet. This service is currently offered by many financial institutions to customers who have a business account with them. Visit your financial institution's website or contact them for assistance when accessing or navigating these electronic services.

12. If I use the Internet Banking Service, when will my payment be processed?

Payments sent electronically by the Internet on a particular day will be processed after midnight of the day of payment. This means that a payment that is due, for example, on June 30th must be entered by midnight June 29th in order to be processed on time. Similarly, post-dated payments must be dated at least one day prior to the due date to be processed on time.

13. Can I make a payment without a remittance form?

Where a payment is made at a financial institution, a remittance form is required.

Where a payment is sent by mail or delivered to an office of the Ministry of Finance, the ministry prefers the payment to be submitted with a remittance form, however where that is not possible, the ministry will accept a payment without a remittance form. Please ensure that your corporations tax account number and the taxation year to which the payment should be allocated is clearly identified on the cheque and/or covering letter. A cheque sent by mail should be sent to:

Ministry of Finance
Revenue Operations and
Client Services Branch
P.O. Box 620
Oshawa ON L1H 8E9

When a payment is made using the Internet Banking Service a remittance form is not required.

Payments (continued)

14. When are instalment payments required?

For a corporation's first taxation year, monthly instalments are not required. In subsequent taxation years, monthly instalments are required unless either the previous taxation year's total tax payable or the current taxation year's total tax payable is less than $2,000. The monthly instalments are required to be paid on or before the last day of each month.

As announced in the 2001 Ontario Budget, the instalment requirements for small businesses have been simplified. Effective for taxation years commencing after December 31, 2001, corporations are permitted to pay their instalments quarterly if their tax payable in the current or preceding taxation year is greater than or equal to $2,000 and less than $10,000.

15. How do I calculate my instalment payment?

For information on calculating your instalment payments, refer to Information Bulletin 4007 *Tax Instalments and Payments* dated October 2002.

16. How do I determine the "balance of tax due date"?

If the corporation was a Canadian-controlled private corporation throughout the taxation year and had taxable income of not more than the corporation's "Ontario business limit" for the previous taxation year, the "balance of tax due date" is on or before three months after the end of the corporation's taxation year. If the previous taxation year is less than 51 weeks, the "Ontario business limit" must be prorated. In all other cases, the "balance of tax due date" is on or before two months after the end of the corporation's taxation year.

Please refer to Information Bulletin 4007 *Tax Instalments and Payments* dated October 2002 for information on calculating the "Ontario business limit".

17. If instalments are not required, when is my tax liability due?

If instalment payments are not required, the corporation's tax liability is due by the "balance of tax due date".

Interest

18. When is interest calculated?

The interest shown on the Notice of Assessment/Reassessment is the interest owing as of the "assessment date" shown on the Notice of Assessment/Reassessment. The interest calculation is based on daily compound interest and is assessed on the outstanding account balance. Credit interest is paid if an overpayment exists in the account.

For additional information on the calculation of interest, please refer to Information Bulletin 4010 *Interest on Overpayments, Underpayments and Instalments of Tax* dated December 2002.

Interest (continued)

19. Why has my business been charged interest?

Interest is charged on deficient instalments and on the late payment of the balance of tax due. When a corporation remits insufficient instalment payments, interest is charged on the difference between the actual instalments and the instalments required. Interest is also charged on the late payment of the balance of tax. If a corporation does not remit the balance of tax due until it files the CT23 Tax Return, it is remitting the balance late and will be assessed interest on the late payment. Tax returns are due six months after the taxation year end of the corporation; therefore, if a corporation pays the balance of tax due at that time, it is making the payment three or four months late.

Address Changes

20. What are the requirements/procedures to change the address of a corporation?

You can use the "Change of Address" insert provided in the monthly statement of account or in the return envelope provided with a Notice of Assessment or Reassessment. You may also provide a written notification of a change of address on company letterhead. The letter should be sent to:

Ministry of Finance
Corporations Tax Branch
Tax Roll Section
33 King Street West
P.O. Box 622
Oshawa ON L1H 8H6

Account Information

21. I am currently preparing my first Corporations Tax Return. How do I know what my account number is?

To obtain your account number, please contact the Tax Roll Section of the Corporations Tax Branch at 1-800-262-0794 ext. 6666 or 905-433-6666, or any Ministry of Finance tax office listed at the front of this guide.

Employer Health Tax (EHT)

Definitions

1. What is EHT?

Employer Health Tax is a payroll tax (payable by employers) on remuneration paid to (i) employees reporting for work at a permanent establishment of the employer in Ontario, and (ii) employees who do not report for work at a permanent establishment, but who are paid from or through a permanent establishment of the employer in Ontario.

2. What is considered remuneration?

In general, remuneration means employment income (box 14 of Canada Customs and Revenue Agency's T4 slip) that is taxable under sections 5, 6 and 7 of the *Income Tax Act* (Canada). It includes salaries and wages, gratuities paid through an employer, bonuses, commission and other similar payments, vacation pay, taxable allowances and benefits, directors' fees, payments for casual labour, amounts paid by an employer to "top up" benefits, and advances of salaries and wages.

Employers are required to include remuneration paid to former employees in their calculation of taxable total Ontario remuneration. For example, taxable benefits provided to retired employees should be included even though reported on a T4A.

For further information, refer to Information Bulletin 2-06 *Remuneration*.

3. Who is an employee?

An employee is:

- an individual employed by an employer;
- an individual who holds office from an employer and receives payment for carrying on the duties of the office;
- an individual who was formerly an employee in the ways outlined above.

For EHT purposes, the Ministry of Finance considers many factors in the determination of employer-employee relationships, including common law principles and Canada Customs and Revenue Agency rulings.

For further information, refer to Information Bulletins:

1-06 (Revised) *How to Identify an Employer-Employee Relationship*
2-06 *Commissioned Real Estate Salespersons*
3-06 *Placement Agencies and Their Workers*

Tax Liability

4. What if I do not have employees at the start of my business but anticipate hiring employees in the future?

In such cases, employers are not required to pay EHT until they actually begin to pay remuneration to employees. At that time, eligible employers should register and pay EHT when their remuneration for the year exceeds the exemption amount for the year. (For 1999 and subsequent years, the exemption amount is $400,000.)

Employer Health Tax (EHT)

Tax Liability (continued)

C. We are an employer who is based outside Ontario. We sell to employing colleagues in Ontario. Do we have to pay EHT?

EHT is payable if the employee's report for work at a permanent establishment of the employer in Ontario. For information on what constitutes a permanent establishment, please refer to Information Bulletin 1.07 *Permanent Establishments* and Bulletin 2.10 *Office in an Employer's Residence*.

D. Is retiring allowance/severance pay taxable?

No, retiring allowance/severance pay is not considered to be income from an office or employment and, therefore, is not taxable.

> **Note:** Employers often refer to the total amount paid to an employee upon termination as severance pay. However, this amount could include taxable items. For instance, pay "in lieu of notice" is considered employment income and is subject to EHT.

For further information, refer to Information Bulletin 2.08 *Remuneration*.

EHT Exemption

E. Who is an eligible employer for the tax exemption?

In general, eligible employers for the tax exemption include:

- private-sector employers;
- organizations that receive financial assistance from any level of government but are not under the control of government; or
- Crown corporations subject to tax under Part I of the *Income Tax Act* (Canada).

For further information, refer to Information Bulletin 2.08 *Revised Tax Exemption*.

F. What are the exemption amounts and how are they calculated?

For eligible employers, exemptions are as follows:

> 1987: the first $200,000 of payroll
> 1988: the first $350,000 of payroll
> 1989 and subsequent years: the first $400,000 of payroll

Eligible employers are not required to pay tax until their cumulative payroll exceeds the exemption for the year. Eligible employers who are associated are required to share the exemption among members of the associated group.

[redacted]

EIT Exemption (continued)

Q. [redacted]

[redacted] employers are connected by ownership or by a combination of ownership and relationship of the owners, either through direct marriage or adoption. The associated corporations rules cover section 256 of the Income Tax Act (Canada) and are used to determine whether employers are associated. Although these rules refer to corporations, their application is extended to include individuals, partnerships and trusts.

For further information, refer to the Glossary of Terms on page 15 of the guide *Associated Employers* and Information Bulletin IB-Associated Employers.

Q. [redacted]

Yes. You may claim the exemption within four years from the day on which the return for the year was required to be delivered to the Ministry (e.g., the return date for claiming the exemption for the year 1997 is March 31, 2002).

The exemption can be requested by completing an amended return for the applicable year(s) or by providing a letter requesting that the annual return be amended to claim the exemption.

Registration

Q. [redacted]

Employers may register for EIT by:

- calling or visiting one of the Ministry of Finance tax offices
- completing an Information Questionnaire available from the Ministry of Finance and returning it to any Ministry of Finance tax office
- calling an Ontario Business Connects (OBC) location and registering electronically by using their self-help workstations or through their website at www.ontario.gov.on.ca/obc, or
- registering electronically by visiting Canada Customs and Revenue Agency's website www.businessregistration.gc.ca.

Eligible employers whose cumulative payroll does not exceed the exemption threshold and who are not associated are not required to register with the Ministry. However, employers, including all members of an associated group, are required to register

Tax Rates

Q. [redacted]

The tax rate is based on remuneration paid before the applicable exemption. An employer with more than one EIT account must use the tax rate applicable to the total of the Total Ontario Remuneration for all the EIT accounts held by the legal entity. There are five graduated tax rates ranging from 0% to 1.95%.

Employer Health Tax (EHT)

Tax Rates (continued)

13. What are the tax rates?

Total Annual Ontario Remuneration	Rate
up to $200k	0.98%
over 200k - 230k	1.101%
over 230k - 260k	1.223%
over 260k - 290k	1.344%
over 290k - 320k	1.465%
over 320k - 350k	1.586%
over 350k - 380k	1.708%
over 380k - 400k	1.829%
over $400k	1.95%

14. What tax rate do I use to calculate my instalment? Is this different from my annual return?

The rate may be different for instalments versus that used for the annual return. Instalment tax rates are based on the employer's payroll from the ***prior year***.

Employers in their first and second year of operation should **estimate** their annual payroll for the current year and use that amount to determine their instalment tax rate.

The tax rate to be used on the annual return is based on the **actual** remuneration paid by the employer during the year. Since the tax payable on the return may differ from the tax paid on the instalments during the year, a debit or credit balance may arise at year-end.

Tax Returns and Instalments/ Payments

15. If my payroll is below the exemption amount, do I still have to file an Annual Return?

No, an eligible employer whose payroll for the year does not exceed the exemption amount is not required to file an Annual Return. However, associated employers must file an Annual Return regardless of their annual gross total Ontario remuneration amounts.

16. How often do I pay the tax?

Commencing January 2000, employers with an annual Ontario payroll of $600,000 or less are not required to file instalments. For these employers, payment of the EHT is required by March 15th of the following calendar year with the filing of the Annual Return.

Employers with a payroll exceeding $600,000 would be required to remit monthly EHT instalments.

Tax Returns and Instalments/ Payments (continued)

Employers who are eligible for the tax exemption, and who have payroll exceeding $600,000, are not required to pay monthly instalments until after their cumulative payroll exceeds the $400,000 exemption amount.

17. Where can I remit my EHT instalments/payments?

EHT instalments/payments may be made:

- at any financial institution in Ontario where you have an account (except caisse populaires or credit unions)
- by mail, or delivery to any Ministry of Finance tax office
- electronically using a financial institution's Internet Banking Service.

Please note that annual returns and annual return payments cannot be processed at financial institutions or electronically through the Internet.

18. What is the Internet Banking Service?

The Internet Banking Service is an on-line tax payment service, available seven days a week, 24 hours a day, using a financial institution's website. It enables participating financial institutions' customers to electronically remit employer health tax payments via the Internet. This service is currently offered by many financial institutions to customers who have a business account with them. Visit your financial institution's website or contact them for assistance when accessing or navigating these electronic services.

19. If I use the Internet Banking Service, when will my payment be processed?

Payments sent electronically by the Internet on a particular day will be processed overnight. This means a payment that is due, for example, on June 15th must be entered by midnight June 14th in order to be processed on time. Similarly post-dated payments must be dated at least one day before the due date to be processed on time.

When a payment is made using the Internet Banking Service, a remittance form (top portion of the Statement of Account) is not required.

20. I did not receive my statement. How can I file my instalment? Can you fax me a remittance form? Will the bank accept this?

If you do not receive your statement, you may send your payment with a letter stating the following information:

- account number
- the period covered
- the amount of your "total Ontario remuneration"
- the tax due

Employer Health Tax (EHT)

Tax Returns and Instalments/ Payments (continued)

A remittance replacement form may be faxed to you, but the faxed remittance form **cannot** be used by financial institutions to process payments. The completed remittance form can be faxed back to the Ministry to avoid a late-filing penalty and the payment can be mailed in. However, **interest charges will apply if the payment is not received by the due date.** If the due date falls on a week-end or holiday, the due date for the instalment is the next working day.

21. Why doesn't the total of my instalments throughout the year equal the EHT payable at year end?

Employers with a total annual Ontario remuneration of more than $600,000 are required to remit instalments on the 15th of each month. Although employers use the previous month's actual payroll to calculate the monthly instalment, the instalment is applied to the month in which it is due. For example, the monthly instalment due on January 15, 2002 is calculated using the December 2001 payroll, but is credited to the 2002 year.

The reconciliation between tax actually due for the year (based on the calendar year January through December) and tax paid by instalments (based on December through November) is achieved by the annual return process. Any balance of EHT due or amount to be refunded is accounted for in the Annual Return.

Penalties

22. Why was a late filing penalty assessed when I mailed my instalment/return before the 15th?

Late filing penalties are assessed for instalments and returns that are not **received** by the Ministry on or before the due date. When mailing instalments or returns, employers should allow sufficient time to ensure that they are delivered by the due date.

Selling, Closing, Amalgamating

23. What if I sell, close or amalgamate my business during the year?

Employers who amalgamate and employers who no longer have a permanent establishment, or employees, in Ontario must advise the Ministry of Finance. An EHT Final Return must be filed, within 40 days of the business closure date (or date of amalgamation), for the part of the calendar year that payroll was paid. Final payment of any tax owing must be sent with the return.

Address Changes

24. What are the requirements/procedures to change my address?

You can use the detachable "Notification of Change" portion of the return envelope provided with the monthly instalment statement or Annual Return to advise the Ministry of any change of information.

Address Changes (continued)

You may also provide a written notification of a change of address to:

Ministry of Finance
Income Tax Related Programs Branch
Employer Health Tax
33 King Street West
PO Box 640
Oshawa ON L1H 8P5

Correcting Account/ Return Information

25. How do I make corrections to my account?

To correct financial information reported on your account, file an amended return for the period in question or send a letter detailing the required adjustments to your local Ministry of Finance tax office. Financial information must be corrected within four years from the date the return was required to be filed. For other corrections, please call your local Ministry of Finance tax office.

Motor Fuels & Tobacco Taxes

Gasoline/Fuel Tax Refunds

1. How do I obtain information on gasoline/fuel tax rebate programs?

You may call the Motor Fuels and Tobacco Tax Branch directly at 905-433-6432 or write to:

Ministry of Finance
Motor Fuels and Tobacco Tax Branch
Refunds Programs
33 King Street West
P.O. Box 625
Oshawa ON L1H 8H9

Gasoline Allowance to Retailers

2. I operate a gas station. Can I apply for a tax refund to cover gasoline losses due to handling and evaporation?

Most retailers (gas stations) can apply for a tax refund to cover gasoline losses due to handling and evaporation under the "TEU Schedule 1". Receipted invoices must be submitted to support the claim. The rate of refund is based on .21% of Ontario tax paid on gasoline sold at retail. "Outlets" owned and operated by collectors do not qualify for this allowance.

Tobacco Licence Requirements

3. Do I need a licence to import and/or export tobacco into/out of Ontario?

The *Tobacco Tax Act* (Act) requires that all businesses who plan to import and/or export tobacco in bulk into or out of Ontario must register with the Motor Fuels and Tobacco Tax Branch in order to obtain a Registration Certificate for Import and/or Export and a Wholesale Dealer's Permit.

To be registered as an Importer and/or Exporter, applicants must provide and maintain security to the Ministry of Finance in the form of a surety bond or letter of credit. This helps to protect the ministry against the loss of public funds in the event a registrant fails to account for tobacco tax collected or collectable. The Act specifies security equal to three month's tax, subject to minimums which range from $10,000 to $1,000,000, depending on registration type(s).

Call 905-433-6394 or write the Motor Fuels and Tobacco Tax Branch for details.

4. Do I need a licence to import and/or wholesale cigars?

The *Tobacco Tax Act* requires that all businesses who plan to import and/or wholesale cigars in Ontario must apply to be designated as a Cigar Tax Collector.

Licence Requirements (continued)

5. Do I need a licence to sell tobacco at retail?

Retailers must ensure that they purchase tobacco from a wholesaler who has a valid wholesale dealer's permit issued by the Motor Fuels and Tobacco Tax Branch and they must contact their municipality regarding zoning by-laws and the sale of tobacco.

Tobacco Product Loss

6. I operate a convenience store. Is there a refund available for product loss of tobacco products due to theft, fire or contamination?

Vendors who have suffered a loss of product due to theft, fire or contamination can claim a refund. The application for Tobacco Tax Refund must have the following documentation:

- claimant's legal name. incorporated name or name of owner
- copy of police or fire marshal report
- copy of insurance settlement or written confirmation from an insurance company showing insurance company name; claimant's name and address; insurance claim number; date of loss; quantity of product settled on; breakdown of the payment made showing the deduction of tobacco tax
- copies of purchase invoices showing that a sufficient quantity of tobacco product was purchased prior to the loss to support the claim
- invoices showing tobacco tax paid, date of purchase and invoice number

Further information on bad debts can be obtained by reading Ontario Tax Bulletin TT 3-2000: *Tax Refunds - Bad Debts and Lost, Destroyed, Stolen or Contaminated Tobacco.*

Community Small Business Investment Funds and Labour Sponsored Investment Funds

Financial Assistance

1. Where does a small business go for a loan? Do you provide loans and funding sources?

The Government of Ontario has no direct financial assistance (loan) programs available to small businesses. Assistance should be sought from traditional sources such as chartered banks or you can contact the Canada-Ontario Business Service Centre at 1-800-567-2345 for information on financial assistance.

You can also contact the Business Advisory Services section of the Ministry of Enterprise, Opportunity and Innovation for information on financial assistance. The location of the Ministry's regional offices can be obtained from its website at **www.Ontariocanada.com**.

Provincially registered Labour Sponsored Investment Funds and Community Small Business Investment Funds may also provide funding to Ontario small businesses. The Ministry can provide a list of their names and contact numbers as well as program guides. For further information please phone 1-800-263-7466.

General Questions

Retention/ Destruction of Books and Records

1. What records am I required to keep and for how long?

In general, you must keep your books and records for at least seven years. However, there are some exceptions and conditions that must be met before you can destroy any books or records (e.g. exceptions relate to Mining Tax, Ontario Home Ownership Savings Plan, Corporations Tax and Labour Sponsored Venture Capital Corporations). Refer to Tax Information Bulletin *Retention/Destruction of Books and Records* for information pertaining to the consent to destroy records.

The specific records which need to be retained differ with each statute; however, books and records must indicate the taxes payable or collected and substantiate any tax exempt status claimed and must be supported by documents necessary to verify that the information in the books and records is correct.

Disagreeing with an Assessment

2. I disagree with the assessment/reassessment/disallowance I have received. What action can I take to have it corrected?

The first step is either to call the appropriate Branch or provide a letter explaining why you disagree. If you still disagree after speaking with a Branch official, you can file a Notice of Objection with the Tax Appeals Branch. The time period for objecting is within 180 days (for International Fuel Tax Agreement (IFTA) objections, within 30 days) from the mailing date of the assessment/reassessment/disallowance. Notice of Objection forms, Notice of Appeal forms, and the Tax Appeals Branch publication *Ontario Taxes and Programs: Objection and Appeal Procedures* can be obtained from the Ministry Information Centre at 1-800-263-7965 or from any Ministry of Finance tax office. The Tax Appeals Branch forms and publication are also available on the Ministry of Finance website **www.trd.fin.gov.on.ca** and through the TAX FAX service at 1-877-482-9329.

Tax Objections and Appeals

Appeals System in Ontario

1. How does the appeals system in Ontario work?

The appeals system in Ontario includes an administrative review of Notices of Objection by the Tax Appeals Branch and a review of Notices of Appeal by the Superior Court of Justice.

The Notice of Objection process is simple, inexpensive and easily accessible to any taxpayer who does not agree with an assessment, reassessment or the disallowance of a refund claim. In considering the Notice of Objection, the Appeals Officer will review the assessing branch's files and all submissions made by the taxpayer within the context of the statutory provisions. The Appeals Officer will notify the taxpayer of the proposed action in response to the objection before the file is finalized. Most cases are resolved at the objection stage, following an exchange of information and opinions by both parties.

If the taxpayer does not agree with the Minister's decision on the objection, a Notice of Appeal may be filed, which may lead to a court hearing.

Filing a Notice of Objection

2. How do I file a Notice of Objection?

A Notice of Objection can be filed by completing a Notice of Objection form or by writing a letter to the Director, Tax Appeals Branch. The letter should be signed by the owner of the business or an authorized employee of the company. If a representative is appointed, the taxpayer must provide written authorization.

Although service by registered mail is recommended, a Notice of Objection may be sent by regular mail or facsimile transmission, or may be hand delivered to either the Tax Appeals Branch or any other Ministry of Finance tax office. (Please refer to the listing of Ministry of Finance tax offices at the front of this guide.)

3. What information do I need to provide?

The Notice of Objection must include:

- the taxpayer's name
- account or permit number
- taxation statute under which the assessment or disallowance was issued
- date and number of the assessment or disallowance
- period or transaction in question
- amount of tax or refund, and
- a clear description of each issue in dispute, fully setting out the facts and reasons for objecting to each issue.

4. What does it cost to file the Notice of Objection?

There is no fee to file a Notice of Objection.

Time Limitation

5. Do I have to file the Notice of Objection within a specified time frame?

Under an Ontario taxation statute, you must file a Notice of Objection within 180 days (for International Fuel Tax Agreement (IFTA) objections, within 30 days) from the day the Notice of Assessment/Reassessement or Statement of Disallowance was mailed or personally delivered to you.

6. Can I obtain additional time to file my Notice of Objection?

If you have a good reason for needing more than 180 days (30 days for IFTA objections) to file your Notice of Objection, you can apply to the Director of the Tax Appeals Branch for an extension of time before the 180 days (30 days for IFTA objections) have expired. Extensions are not given for reasons such as vacation, inventory-taking or year-end timing.

Further, you may apply for an extension at any time within one year from the mailing date on the Notice of Assessment or the Statement of Disallowance. However, if you apply after the 180-day period, you must be able to demonstrate that it was impossible to file within the 180-day period (30-day period for IFTA objections) and that the Notice of Objection was filed as soon as circumstances permitted. If the explanation provided is not satisfactory, no extension of time will be given and your Notice of Objection will be considered to be invalid.

Payment of Amount in Dispute

7. Do I have to pay the amount assessed that is in dispute while the objection is under review?

Yes, payment is required even if you have filed, or intend to file, a Notice of Objection.

There are no provisions in the Ontario tax statutes that allow for the suspension of payment of an amount that has been assessed, but is in dispute, pending the outcome of the Notice of Objection or Notice of Appeal process. Additional interest will be assessed on the principal liability if full payment is not received when the assessed amount is due.

Taxpayers who successfully object or appeal will be paid interest on any amounts paid on an assessment, from the dates the payments were made. However, the amount refunded, including interest, will first go to reducing other tax liabilities owed to Ontario before any refund is made to you.

Remission of Tax or Interest

8. Can any of the tax or interest assessed be forgiven since I don't have the money to pay it?

There are no provisions in the Ontario tax statutes to allow for the reduction of the tax or interest that has been assessed because of the taxpayer's inability to pay.

The Appeals Officer can only recommend a variance to the tax or penalty that has been assessed if it is his or her opinion that the amount assessed is in error due to an incorrect application of the law.

Tax Objections and Appeals

Compensation for Costs Incurred

9. Will I be compensated for my costs if I win the objection?

No compensation for costs is granted to a taxpayer who may obtain a favourable resolution at the Notice of Objection stage. The Notice of Objection process is intended to be simple, inexpensive and easily accessible.

Canada Customs and Revenue Agency Reassessments

10. Our corporation has received a reassessment from the Canada Customs and Revenue Agency. Do I have to file a Notice of Objection with the province of Ontario?

Some Ontario corporations tax assessments are based on Canada Customs and Revenue Agency assessments.

You do not need to file a Notice of Objection with the Ontario Tax Appeals Branch for such designated or specified assessments if you have already filed a federal objection. Ontario will be bound by the results of any federal objection. However, if you disagree with non-designated or non-specified items in the assessment, such as capital tax, then you will need to file a separate Ontario objection.

Filing a Notice of Appeal

11. How do I file a Notice of Appeal?

If you are not satisfied with the Ministry's decision concerning a Notice of Objection, you may file a Notice of Appeal. The Notice of Appeal is required to be filed within 90 days from the date the Ministry's decision on the Notice of Objection was mailed to you. The appeal must be filed both with the Superior Court of Justice (formerly the Ontario Court - General Division) and the Tax Appeals Branch within that 90-day period.

To file the Notice of Appeal with the court, you must have the Notice of Appeal hand delivered to the office of a local registrar of the court and you must pay the applicable court filing fee. You will find a list of the court addresses in the telephone directory in the Blue Pages under Courts (P-Ontario Provincial Services), Superior Court of Justice, Civil Filing Office. To file the copy with the Tax Appeals Branch, you can send the Notice of Appeal by registered mail, regular mail or facsimile transmission or it can be hand delivered at 1600 Champlain Avenue, 3rd Floor, Whitby ON L1N 9B2.

Important Dates

	Corporations Tax	Employer Health Tax	Retail Sales Tax
Return Due	on or before the last day of the 9th month following taxation year end	March 15th of the year for the prior year	23rd of the month following the end of the filing period
Instalment Due	last day of each month	15th of the month for current month	n/a
Notice of Objection	within 180 days from the day the Notice of Assessment/Reassessment or Statement of Disallowance was mailed or personally delivered to you	within 180 days from the day the Notice of Assessment/Reassessment or Statement of Disallowance was mailed or personally delivered to you	within 180 days from the day the Notice of Assessment/Reassessment or Statement of Disallowance was mailed or personally delivered to you
Notice of Appeal	within 30 days from the date the Ministry's decision on the Notice of Objection was mailed to you	within 30 days from the date the Ministry's decision on the Notice of Objection was mailed to you	within 30 days from the date the Ministry's decision on the Notice of Objection was mailed to you

Glossary of Terms

Associated Corporation

In accordance with subsection 256(1) of the *Income Tax Act* (Canada), corporations are associated when:

- one corporation controls the other (e.g., a parent corporation and a subsidiary corporation);
- corporations are controlled by the same person or group of persons (e.g., Corporation Y and Corporation Z both have the same parent corporation therefore, Corporation Y and Corporation Z are associated);
- each corporation is controlled by one person and the person who controls one corporation is related to the person who controlled the other corporation and one of those persons owned not less than 25% of the issued shares of each corporation (e.g., spouse X owns 100% of the shares of Corporation Y and 25% of the shares of Corporation Z, spouse B owns 75% of the shares of Corporation Z therefore, Corporation Y and Corporation Z are associated);
- one of the corporations was controlled by one person and that person was related to each member of a group of persons that controlled the other corporation and the one person owned not less than 25% of the shares of the other corporation (e.g., spouse X owns 100% of Corporation Y and 25% of Corporation Z. The other 75% of the shares of Corporation Z are owned by spouse B (25%) and two adult children (25% each). therefore, Corporation Y and Corporation Z are associated);
- each of the corporations was controlled by a related group and each of the members of one of the related groups was related to all of the members of the other related group and one or more members of both the related groups owned shares of the corporation not less than 25% of the issued shares (e.g., Corporation Y is controlled by Cousin X (50%), spouse B (50%) and their adult children (0%); Corporation B is controlled by spouse B (50%) and spouse Y (50%) and their adult children (10%). Each of the members of the related group which controls corporation B is related to each of the members of the related group that controls Corporation Y and spouse Y and spouse B each own a shares of 50%, of the shares of each corporation therefore, Corporation Y and Corporation B are associated).

Associated Employee

Follows the same rules as "associated corporation." Although these rules refer to corporations, their application is extended under the Employee Benefit Plan to include individuals, partnerships, trusts or any other organization as follows:

- If an eligible employee is an individual, that individual is treated as if he or she is a corporation. Any employee is deemed to be a corporation of which he or she owns directly or indirectly more than 10% in value of the outstanding voting rights under all circumstances and any person who is an individual.
- If an eligible employee is a partnership or trust, that partnership or trust is treated as if it were a corporation. Any partnership or trust is deemed to be a corporation having any one of these characteristics which have not voting rights under all circumstances. Each partner or beneficiary is considered to own shares in the corporation in the same proportion in which he/she shares the income or loss of the partnership or trust.

For more information please refer to IRS Information Bulletin (IB) Revenue Associated Employers

Control

Generally, control means shares in a corporation, a person or a group of persons own more than 50% of the fair market value of the issued and outstanding shares of the capital stock of a corporation.

Effective Tax Rate

The effective income tax rate of a small business corporation is the difference between the general income tax rate and the rate of the income deduction for Small Business Corporations.

Fixtures

Anything that is permanently affixed to real property, such as windows, doors, built-in appliances, mirrors cabinets, central HVAC.

Generally Accepted Accounting Principles

The rules on which Canadian financial statements are normally prepared.

Real Property

Land and anything permanently attached to land, such as buildings, driveways roads, and sidewalks.

Glossary of Terms

Surtax	The Incentive Deduction for Small Business Corporations (IDSBC) is clawed back by the application of a surtax on the amount by which the aggregate taxable income of the corporation and any associated corporation exceed the Ontario business limit (effective October 1, 2001 this amount is $280,000). The amount of the surtax cannot exceed the amount of the IDSBC claimed by the corporation. The surtax will completely eliminate the benefit of the IDSBC where the taxable income of the corporation and any associated corporation exceed a threshold amount (effective October 1, 2001 this amount is $700,000). Effective October 1, 2001 the surtax rate is 4.333%.
Tangible Personal Property	Personal property that can be seen, weighed, measured, felt or touched or that is in any way perceptible to the senses, and includes computer programs, natural gas and manufactured gas.
Telecommunication	Any transmission, emission or reception of signs, signals, writing, images or sound or intelligence of any nature by wire, radio, visual or other electromagnetic or laser-based system.
Telecommunication Services	Include local and long distance telephone and telegraph services, community antenna and cable television, pay television and transmission by microwave relay stations or by satellite.
Transient Accommodation	Lodging for less than one month in a hotel, motel, apartment, hostel, boarding house, tourist home, lodging house or similar establishment having accommodation for more than four tenants.

Additional Sources of Information

Other agencies and government offices will be able to assist you with questions pertaining to other aspects of your small business. The chart below provides contact numbers for some of these sources.

Topic/Mandate	Contact
• Incorporation • Registration for corporations	Ministry of Consumer and Business Services, Companies Branch Toll Free: 1-800-361-3223 Telephone: 416-314-8880 TTY: 416-314-0843 Website: www.cbs.gov.on.ca
• Goods and Services Tax (GST) • Payroll deductions (e.g. Canada Pension Plan, Employment Insurance) • Guide for Canadian Small Businesses • Small Business Web Page • Import/Export	Canada Customs and Revenue Agency Toll Free: 1-800-959-5525 (GST, payroll deductions and import/export enquiries) Website: www.ccra-adrc.gc.ca
• Business Self Help Offices • Small Business Enterprise Centres	Ministry of Enterprise, Opportunity and Innovation Toll Free: 1-800-567-2345 Telephone: 416-775-3456 Website: www.ontario-canada.com
• Financing services • Consulting services • Venture capital	Business Development Bank of Canada Toll Free: 1-888-463-6232 Website: www.bdc.ca
• Municipal permits • Licences • Regulations	Clerk of the City, Town or Municipality in which the business will be located Consult the Blue Pages of your telephone directory under "Municipal Services"

Additional Sources of Information

Topic/Mandate	Contact
• Workplace safety and insurance	Workplace Safety and Insurance Board Toll Free: 1-800-387-5540 Telephone: 416-344-1005 TTY: 1-800-387-0025 Website: www.wsib.on.ca
• Employment standards	Employment Standards Branch, Ministry of Labour Toll Free: 1-800-531-5551 Website: www.gov.on.ca/lab
• Ontario Health Insurance Plan (OHIP) re health coverage	Ministry of Health and Long-Term Care Website: www.gov.on.ca/health Consult the Blue Pages of your telephone directory under "Health"
• Business statistics	Statistics Canada, Advisory Services Toll Free: 1-800-263-1136 Telephone: 416-973-6586 Website: www.statcan.ca
• Business name search • Registering or renewing business name, RST, EHT, WSIB • Master business licence	Ontario Business Connects (OBC) Toll Free: 1-800-565-1921 Telephone: 416-314-9151 Wesite: www.cbs.gov.on.ca/obc
• Business start-up and existing • Import/export • Information on financial assistance/ business plans • Federal and provincial programs related to business	Canada - Ontario Business Service Centre (joint federal-provincial information centre) Toll Free: 1-800-567-2345 Telephone: 416-775-3456 Website: www.cbsc.org/ontario

You can obtain this publication by visiting our website at www.trd.fin.gov.on.ca.
This guide, as well as many other guides, is also available through our
TAX FAX Service at 1-877-4-TAX-FAX or 1-877-482-9329.

Ce document est disponible en français sous le titre :

Guide à l'intention des petites entreprises
Questions les plus fréquemment posées

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